

December 14, 2021

VIA ECF

Hon. Lorna G. Schofield
United States District Court
Southern District of New York
Attn: Hon. Lorna G. Schofield, U.S.D.J.
500 Pearl Street
New York, NY 10007

Re: *Edelman v. NYU Langone Health System, et al.*,
Case No. 1:21-cv-00502 (LGS) (GWG)

Dear Judge Schofield:

The parties write jointly pursuant to this Court's Third Amended Civil Case Management Plan and Scheduling Order (Doc. No. 64) (the "Scheduling Order") requiring the submission of a joint status letter in accordance with Rule IV(A)(2) of this Court's Individual Rules and Procedures for Civil Cases (the "Individual Rules").

(a) What discovery has taken place, specifically

- (1) *What discovery requests have been propounded, who propounded each request and on what date;*

The parties have each served upon each other initial discovery pursuant to the Pilot Project Regarding Initial Discovery Protocols for Employment Cases Alleging Adverse Action (the "Protocols"). On May 17, 2021, Defendants served Defendants' First Request to Plaintiff for the Production of Documents, and Plaintiff served her First Set of Interrogatories and First Request for the Production of Documents on July 2, 2021.

- (2) *What responses were made, who made each response and on what date;*

Both parties served responses and document production pursuant to the Protocols. Plaintiff served her responses to Defendants' discovery demands on July 2, 2021. Defendants responded to Plaintiff's discovery demands on August 13, 2021.

- (3) *The volume of documents produced, who produced the documents and when;*

In response to the Protocols, Plaintiff produced 386 pages of documents on or about April 23, 2021, and Defendants produced 225 pages of documents from April 21, 2021 through May 14, 2021. Plaintiff produced 205 pages of documents on September 19, 2021, and 8 pages of documents on September 22, 2021. On December 10, 2021, the adjourned date of Dr. Porges' deposition, Plaintiff produced 300 additional pages of documents the majority of which Plaintiff had obtained prior to leaving NYU's employment in or about May 2021, for a total of 1124 pages of documents.

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Defendants produced 947 pages of documents on a rolling basis from April 2021 through August 2021, and 143 pages of documents on a rolling basis in September 2021, in response to Plaintiff's discovery demands. On November 18, 23, 24, 29, 2021, prior to the depositions of various witnesses, Defendants produced additional pages of documents, for a production of documents totaling 1,485 pages.

(b) The procedural history of the case to date, specifically

(1) What pleadings have been filed, who filed each pleading and on what date;

Plaintiff filed her Complaint on January 20, 2021, and Defendants filed their Answer on March 22, 2021.

(2) What motions, if any, have been filed, who filed each motion and on what date each motion was filed;

Defendants filed a discovery motion on August 18, 2021, regarding the Stipulated Confidentiality Order. On October 20, 2021, Defendants filed a letter motion to continue Plaintiff's deposition (Doc. No. 60). By an Order dated October 21, 2021, (Doc. No. 61), the Court granted Defendants' motion in part, granting leave to depose Plaintiff for a period limited to an additional six hours. There are also a number of motions dealing with requested extension of the date to make expert disclosures and for the schedule for deposing experts. By a memo endorsed Order (Doc. No. 87) the Court denied Plaintiff's application for an extension of time to disclose her expert and the expert's report. Plaintiff submits that the Court similarly denied Defendants' mistaken letter motion for reconsideration. See Docket Entries 79, 85-86.

(3) What motions, if any, are currently pending and, for each pending motion, the date it was or is scheduled to be fully briefed; and

No motions are currently pending.

(c) The parties' plans to ensure that they meet the Court ordered discovery deadlines.

The parties largely have cooperated in discovery thus far. The date for fact discovery has now passed. Plaintiff shall be submitting to Defendants written correspondence following up on calls for the production of various documents during depositions, which remain ongoing and for which Plaintiff has not yet received copies of all transcripts. Defendants object to Plaintiffs' belated attempt to impose a massive discovery burden on Defendants after the close of fact discovery. Plaintiff submits that all requests for the production of documents were made during the depositions, at a time when fact discovery remained open, and were thus not belated.

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(i) **Update on Depositions**

Depositions taken:

- Plaintiff's deposition, by Defendants taken on September 20, 2021
- Kathleen Pacina (NYU), deposition by Plaintiff, completed September 24, 2021
- Defendant, Andrew Rubin, by Plaintiff, taken September 27, 2021
- Defendant Joseph Antonik, by Plaintiff, completed October 7, 2021
- Defendant Andrew Rubin, by Plaintiff, continued and completed October 25 2021
- Defendant David Kaplan, by Plaintiff, completed October 26, 2021
- Defendant Joshua Swirnow, by Plaintiff, completed November 9, 2021
- Plaintiff's deposition, by Defendant, continued and completed November 19, 2021
- Dr. Kavini Mehta (NYU), deposition by Plaintiff, completed November 22, 2021
- Non-party Miriam Ruiz, deposition by Plaintiff, completed November 29, 2021
- Dr. Andrew Porges (NYU), deposition by Plaintiff, completed December 10, 2021

Deposition Scheduled:

Limited deposition of Defendant Joseph Antonik, by Plaintiff, regarding the "late disclosure of documents," on December 21, 2021, Order dated 12/2/21, (Doc. No. 75).

(ii) **Expert Discovery**

No expert discovery is scheduled pursuant to this Court's Order dated 12/8/21 (Doc. No. 87).

iii. **Status Letters, Dispositive Motions, Conference**

- a. The parties do not request a referral for settlement discussions.
- b. A party wishing to file a summary judgment or other dispositive motion must file a pre-motion letter at least two weeks before the pre-motion conference (on or before **January 20, 2022**).
- c. A pre-motion conference for any anticipated dispositive motion is scheduled for **February 3, 2022**, at 10:50 a.m.

The parties thank this Court for its time, attention, and consideration in this case.

Respectfully submitted,

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Dated: Lake Success, New York
December 14, 2021

Dated: New York, New York
December 14, 2021

MILMAN LABUDA LAW GROUP PLLC

TARTER KRINSKY & DROGIN LLP

By: /s/Emanuel Kataev

Joseph M. Labuda
Emanuel Kataev
3000 Marcus Avenue, Suite 3W8
Lake Success, NY 11042-1073
(516) 328-8899
joe@mllaborlaw.com
emanuel@mllaborlaw.com
Attorneys for Plaintiff

By: /s/Richard L. Steer

Richard L. Steer
Tara T. Carolan
1350 Broadway, 11th Floor
New York, NY 10018
(212) 216-8000
rsteer@tarterkrinsky.com
tcarolan@tarterkrinsky.com
Attorneys for Defendants